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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,680	09/22/2000	Sik Heng Foo	85773-229	9706
7	7590 01/14/2004	EXAMINER		
Smart & Bigg	gar	TRAN, DZUNG D		
Suite 3400 1000 de la Gau	ichettere Street West	ART UNIT	PAPER NUMBER	
Montreal, QC	H3B 4W5	2633		
CANADA			DATE MAILED: 01/14/2004	4

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) Application No. Applicant(s) Go.667.880 FOO, SIK HENS									
Examiner Dzung D Tran - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION Estatution of time may be available under the professions of 3° CFR 1.136(a). In one event, however, may a reply be timely filled If the priod for reply specified above, the maximum statutory period will early and will expert SIX (b) MoNTH to make a realing date of the communication for reply to specified above, the maximum statutory period will early and will expert SIX (b) MoNTH to make a realing date of the communication for reply specified above, the maximum statutory period will early and will expert SIX (b) MoNTH to make a realing date of the communication expert SIX (b) MoNTH to make a realing date of the communication, even if timely filled, may reduce any vestices any vestices by the of the interior than there mentions date the melting date of this communication, even if timely filled, may reduce any vestices any vestices and the process of the communication and the communication expert for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-40 is/are pending in the application. 4a) Of the above daim(s) is/are withdrawn from consideration. 5b) Claim(s) is/are allowed. 6b) Claim(s) 4-40 is/are rejected. 7c) Claim(s) are subjected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filled on is/are: a) accepted or b objected to by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The cost or declaration is objected to by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The cost or declaration is objected to by the Examiner.			Application No.		Applicant(s)				
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extension of store may be available under the previous of 37 GPR 1.156(a). In or event, however, may a reply be timely filed Extension of store may be available under the previous of 37 GPR 1.156(a). In or event, however, may a reply be timely filed Extension of store may be available under the previous of 37 GPR 1.156(a). In or event, however, may a reply be timely filed Extension of store may be available under the previous of 37 GPR 1.156(a). In or event, however, may a reply be timely filed If the period for reply is specified above, be maximum statutory previous and under the mailing date of this communication, even if timely filed, may reduce any search plants term adjustment. See 37 GPR 1.794(b). Status 1) [2] Responsive to communication(s) filled on 31 October 2003. 2a) [1] This action is FINAL. 2b) [2] This action is non-final. 3] Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) [2] Claim(s)					l =				
THE MAILING DATE OF THIS COMMUNICATION. Edaminion of time may be available under the provision of 3 of PR. 1 13(d). In no event, however, may a reply be timely filed after SX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the mainime and activatory pricing under the SX (6) MONTHS from the mailing date of this communication. Failure to reply within the set of extended period for reply vill, by attailute, greater all specified to become ARANDONED (39 U.S. C. § 133). Any wayls received by the Office in the thire months what the mailing date of this communication, even if timely lifed, may reduce any Status 1)② Responsive to communication(s) filled on 31 October 2003. 2a) This action is FINAL. 2b)② This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)② Claim(s) 1-40 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5)□ Claim(s) 1-40 is/are allowed. 6)② Claim(s) 1-40 is/are allowed. 6)② Claim(s) 1-40 is/are allowed. 7)□ Claim(s) is/are subjected to extended a provided to be provided to by the Examiner. 10)□ The drawing(s) filed on is/are: a)□ accepted or b)□ objected to by the Examiner. Application Papers 9)□ The specification is objected to by the Examiner. 10)□ The drawing(s) filed on is/are: a)□ accepted or b)□ objected to by the Examiner. 11)□ The proposed drawings are required in reply to this Office action. 12)□ The oath or declaration is objected to by the Examiner. 12)□ The oath or declaration is objected to by the Examiner. 13)□ All b)□ Some c)□ None of: 11□ Certified copies of the priority documents have been received in this National Stage application from the International Bureau (PT Tule 17, 2(a)). *See the attached detailed Office action for domestic priority under 35 U.S.C. § 119(appears on the cove	r sheet with the c	orrespondence address				
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Application/Control Number: 09/667,680 Page 2

Art Unit: 2633

DETAILED ACTION

Specification

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 7, 9-12, 15-18, 21, 22, 25-29 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Barnard et al. U.S. patent no. 6115,157.

Regarding claims 1 and 36, Barnard discloses a method of equalizing channels of WDM optical network, wherein each channel travels through the network from one of the site, call an "add" site for that channel (figure 7, elements Tx1, Tx2...Tx4), to another one of the sites, called a "drop" site for that channel (figure 7, elements Rx1, Rx2.. Rx4), comprising:

determining a bit error rate (BER) for each channel (channel specific figure of merit as claimed), (figure 7, column 6, lines 22-28),

determining a BER for all channels (site specific figure of merit as claimed) at the receiving sites (same as drop site of claimed) (figure 7, element 17, column 3, lines 1-44),

Application/Control Number: 09/667,680

Art Unit: 2633

adjusting a transmit power of each channel as a function of BER of that channel and as a function of BER for that receiving site (same as drop site of claimed) (column 8, line 47 to col. 10, line 25).

Regarding claims 2, 10, 17-18, 22 and 26-29, Barnard further discloses each channel occupies a distinct wavelength (figure 7, column 6, lines 14-31).

Regarding claims 3, 4, 11 and 12, Barnard further discloses function is the arithmetic and average function (column 7, lines 21-65).

Regarding claims 7, 15, 21 and 25, Barnard further discloses adjusting (increasing or decreasing) the transmit power at the transmitters site (same as add site of claimed) (col. 10, line 58 to col. 11, line3).

Regarding claim 9, Barnard further discloses the bit error rate (BER) (column 6, lines 22, 24 2648, 64-65).

Regarding claim 16, Barnard further discloses the optical signal to noise ratio (OSNR) (column 1, lines 39-54).

Claim Rejections - 35 USC § 103

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Page 4

Application/Control Number: 09/667,680

Art Unit: 2633

4. Claims 5, 6, 8, 13-14, 19-20, 23-24, 30-32, 35, and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnard et al. U.S. patent no. 6115,157 in view of Li et al U.S. 2003/0053163.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Regarding claims 5, 13, 19, 23, 30 and 39, as per claims above, Barnard discloses all the limitations except for determining the maximum and minimum wavelength specific figures of merit and determine a site specific figure of merit for each

Application/Control Number: 09/667,680

Art Unit: 2633

site that is a drop site for at least one channel is performed only if the difference between the maximum and minimum wavelength specific figures of merit is greater than a threshold. Li discloses the method for determining OSNR min and OSNR max and compare the difference between the maximum and minimum OSNR with a threshold (figure 4A, step 120, 125, 135, page 6). At the time of the invention was made, it would have been obvious to a person of ordinary skill in the art to include the teaching of Li in the system of Barnard. One of ordinary skill in the art would have been motivated to do this in order to provide a less expensive and more flexible method for equalizing channels at a chosen location in a WDM system that is capable of equalizing performance in more complex networks such as those having an add/drop multiplexer.

Regarding claims 6, 14, 20, 24 and 32-35, Li further discloses the method for adjusting the input power of all transmitters (page 6).

Regarding claim 8, Q (or quality factor) is a well known transmission characteristic in the art (i.e Q factor, BER, OSNR). Therefore, it would have been obvious to a person of ordinary skill in the art to use the Q factor as a parameter for the evaluation of the characteristic of an optical fiber system and for channel performing the equalization in the WDM system.

Regarding claim 31, Li further discloses a variable optical attenuator (figure 2A, element 17, page 3).

Regarding claims 37, 38 and 40, Li futher discloses a network manager (figures 3B, 3C, page 5) for controlling and equalizing the optical power.

Application/Control Number: 09/667,680

Art Unit: 2633

Conclusion

5. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dzung Tran whose telephone number is (703) 305-0932.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Jason Chan, can be reached on (703) 305-4729.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

M.R. SEDIGHIAN Patent Examiner

Page 6

Art Unit: 2633